THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 26256 of 2005

Dated: 10-02-2006

Between:

Sri K.Siddagiri Sharma

..... PETITIONER

AND

The State, rep., by its Principal Secretary,

Endowments Department,

Secretariat, Hyderabad and three others.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 26256 of 2005

O R D E R:

The petitioner claims to be the Archaka of Sri Siddha Rameswara Swamy

Temple, Bikkanoor, Nizamabad District. It is not in dispute that the Assistant Commissioner of Endowments, Nizamabad by proceedings dated 24-08-1996 recognized the fourth respondent herein as the member of the founder's family. Aggrieved by the same, the petitioner herein filed O.A.No.18 of 2003, which is pending as on today before the second respondent-Deputy Commissioner of Endowments, Hyderabad. Admittedly, the proceedings dated 24-08-1996 continue to be in operation. While so, the second respondent-Deputy Commissioner of Endowments, Hyderabad issued a notification dated 11-11-2005 under Section 15(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') proposing to constitute a Trust Board to Sri Siddarameshwara Swamy Temple, Bikknoor and inviting applications in the prescribed pro forma from the interested persons. The said notification dated 11-11-2005 is under challenge in this writ petition contending, *inter alia,* that in case of constituting the Trust Board, the fourth respondent, who is the founder trustee will act as Chairman of the Trust Board, which would be detrimental to the interests of temple as well as the devotees including the petitioner. It is further contended that the fourth respondent, who is recognized as the member of the founder's family of the temple in question, has been trying to convert the temple into a *math* without any orders of the competent authority and that he is not even signing the salary cheques issued to the Archakas. Thus it is contended that since the fourth respondent is acting against the interests of the temple, it would not be appropriate to constitute the Trust Board under Section 15(2) of the Act, pending adjudication of O.A.No.18 of 2003.

The second respondent-Deputy Commissioner of Endowments filed a counter affidavit, in which it is stated that the temple in question having been published under Section 6 (b) of the Act is under the administrative control of the Deputy Commissioner of Endowments and that though the fourth respondent is acting as the member of the founder's family, the temple is being managed by an executive officer appointed under Section 29(6) of the Act. It is further stated that neither the temple is converted as a *math* nor any attempt to convert as such will be entertained and that having noticed the fact that the fourth respondent declined to sign the salary cheques of the Archakas, the cheque drawing power of the fourth respondent was withdrawn and the salaries of the archakas were paid up to date. It is also stated that the fourth respondent

was directed to vacate two rooms which are under his occupation and the Executive Officer appointed by the Department is overseeing the day-to-day affairs of the temple, and even the participation of fourth respondent in the management of the temple is watched over by the Executive Officer to see that the interests of the temple are protected in every manner.

As could be seen from the averments in the counter affidavit, which stood unrebutted, it is clear that the respondents 1 to 3 are taking all the necessary steps to protect the interests of the temple. Even assuming that the allegations made by the petitioner against the fourth respondent are true, it is for the competent authority to take appropriate action against the fourth respondent. Since the temple has been published under Section 6(b)(ii) of the Act and also registered under the provisions of the Act, it is necessary to constitute a Trust Board under Section 15(2) of the Act. Hence merely on the basis of the irregularities alleged against the fourth respondent, no Mandamus can be issued restraining the second respondent from constituting the Trust Board under Section 15(2) of the Act. It is also relevant to note that as on today, the fourth respondent has been recognized as the member of the founder's family by virtue of the order dated 24-08-1996 passed by the Assistant Commissioner of Endowments. O.A.No.18 of 2003 filed by the petitioner against the said order is still pending.

For the aforesaid reasons, I do not find any infirmity in the impugned notification dated 11-11-2005 issued by the second respondent for constituting the Trust Board. The said action being in accordance with the statutory provisions, the relief as prayed for cannot be granted.

However, the learned counsel for the petitioner, while placing before this Court a report of the Regional Joint Commissioner M.Z-III, Endowments Department, Hyderabad, based on the inspection made on 02-09-2002, submits that as per the report of the Regional Joint Commissioner, fourth respondent is found to have committed several irregularities and therefore, it is not desirable to constitute the Trust Board to which the fourth respondent would be the chairman.

As noted above, it is always open to the Competent Authority to take appropriate action on the basis of the report of the Regional Joint

Commissioner, even after the Trust Board is constituted either under Section 20 of the Act which provides for suspension, removal or dismissal of the Trustee or any other appropriate provision.

In the light of the statutory provisions, this Court has no doubt that in case the allegations made against the fourth respondent are established, the Competent Authority would take appropriate action in accordance with law.

With the above observations, the writ petition is dismissed. No costs.

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G.ROHINI,J

Dated: 10-02-2006

klp/ghn